

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

AMHERST EXEMPTED VILLAGE)	CASE NO. 1:07-CV-0920
SCHOOL DISTRICT BOARD OF)	
EDUCATION,)	
)	
Plaintiff,)	JUDGE NUGENT
)	
v.)	MAGISTRATE JUDGE VECCHIARELLI
)	
ALICE CALABRESE, <i>et al.</i> ,)	REPORT AND RECOMMENDATION
)	
Defendants.)	

This matter is before the magistrate judge on referral. Plaintiff, Amherst Exempted Village School Board ("Amherst"), has moved for summary judgment against defendant Donald R. Menefee ("Menefee"). Doc. No. 76. A Report and Recommendation issued this date recommends that the court grant Amherst's motion and (1) award Amherst \$12,970.00 in attorney's fees against Menefee, (2) tax Menefee for Amherst's costs in the current action pursuant to Fed. R. Civ. P. 54(d)(1) ("R. 54(d)(1)") and 28 U.S.C. § 1920 ("§ 1920"), and (3) enter judgment in favor of Amherst and against Menefee in the amount of \$12,970.00 plus Amherst's cost of pursuing this action. Doc. No. 91.

Also pending before the court is the motion of defendant Alice Calabrese ("Calabrese") for an award of sanctions against Amherst. Doc. No. 88. A second Report and Recommendation issued this date recommends that the court (1) deny Calabrese's motion for sanctions pursuant to R. 11, (2) grant Calabrese's motion for costs pursuant to

R. 54(d)(1), and (3) in its final judgment require Amherst to pay Calabrese's costs in this action pursuant to R. 54(d)(1) and § 1920. Doc. No. 92.

In addition, currently pending before the court is the motion of Amherst to dismiss Calabrese from the case with prejudice. Doc. No. 78. A Report and Recommendation issued on March 27, 2008 recommends that the court grant this motion. Doc. No. 84. Thus, this court should enter judgment dismissing Amherst's claims against Calabrese with prejudice and taxing Amherst with Calabrese's costs of this action pursuant to R. 54(d)(1) and § 1920.

Should the court accept the above recommendations, the only unresolved claims remaining in the case would be the cross-claims of Calabrese against Menefee for negligence, legal malpractice, and subrogation. As these claims involve only issues of state law, the court should dismiss these claims without prejudice to allow the parties to adjudicate the claims in state court.

Dated: June 19, 2008

/s/ Nancy A. Vecchiarelli
Nancy A. Vecchiarelli
United States Magistrate Judge

OBJECTIONS

Any objections to this Report and Recommendation must be filed with the Clerk of Courts within ten (10) days after being served with a copy of this Report and Recommendation. Failure to file objections within the specified time may waive the right to appeal the District Court's order. See *United States v. Walters*, 638 F.2d 947 (6th Cir. 1981). See also *Thomas v. Arn*, 474 U.S. 140 (1985), *reh'g denied*, 474 U.S. 1111 (1986).